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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,260	12/11/2003	Colin Whitby-Stevens	APPLE.049A	9784
65201 7590 04/18/2007 GAZDZINSKI & ASSOCIATES, P.C. 11440 WEST BERNARDO COURT SUITE 375 SAN DIEGO, CA 92127			EXAMINER ABRAHAM, ESAW T	
			ART UNIT 2112	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
31 DAYS			04/18/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/735,260

Applicant(s)

WHITBY-STREVENS ET AL.

Examiner

Esaw T. Abraham

Art Unit

2133

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-30 are subject to restriction and/or election requirement.

GUY LAMARRE  
PRIMARY EXAMINER

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date 03/26/07.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

**Election / Restriction**

Restriction to one of the following invention is required under 35 U.S.C. 121

Group I. Claims 1-12 and 25 drawn to:

A device or a computer program produce or a method of transmitting data across a communication medium to a receiving side, the communication medium using a transmission implementation comprising if data to be transmitted can be encoded as groups of bits, each group having a first subgroup of critical information and a second subgroup of less critical information, and if the transmission implementation groups information into transmission quanta having equal numbers of bits and has the property that each transmission quantum can be reported on the receiving side as having been received correctly, or in which a transmission error is detected, then encoding the data to be transmitted, the encoding replicating the critical information and separating the replicated, critical information by a number of bits from the second subgroup, the number of bits equal to at least one less than the number of bits in the transmission quantum; and transmitting the encoded data over the network to the receiving side classified in 714/747.

Group II. Claims 13-24, 26 and 27 drawn to:

A device or a method of processing data or a computer program product containing instructions received over a communication medium comprising receiving data encoded as groups of bits, each group having a first subgroup of critical information and a second subgroup of less critical information, each group of bits associated with a symbol, wherein the groups of bits are received in transmission quanta having equal numbers of bits, the groups of bits and the transmission quanta having sizes that are multiples of 2 and a start of a transmission quantum is aligned with an even-encoded bit in a group of bits, the encoding replicating the critical information and separating the replicated, critical information by a number of bits from the second subgroup, the number of bits equal to no less than two less than the number of bits in the transmission quantum, if an errored group of bits is received, and one of the replicated, critical information bits is evaluated to be of a first value, and transmission mode is not in in-packet mode, then replace the symbol associated with the errored group of bits with a DATA NULL symbol; and if an errored group of bits is received, and one of the replicated, critical information bits is evaluated to be of a first value, and transmission mode is in in-packet mode, then accept the symbol associated with the errored group of bits as data classified in 714/748.

The invention are distinct, each from the other because of the following reasons:

Invention Group I and group II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable.

In the instance case, invention Group I has separate utility separate utility such as data transmitted and encoded as groups of bits, each group having a first subgroup of critical information and a second subgroup of less critical information, and if the transmission implementation groups information into transmission quanta having equal numbers of bits and has the property that each transmission quantum can be reported on the receiving side as having been received correctly, or in which a transmission error is detected, then encoding the data to be transmitted (retransmitting), the encoding replicating the critical information and separating the replicated, critical information by a number of bits from the second subgroup, the number of bits equal to at least one less than the number of bits in the transmission quantum; and transmitting (retransmitting) the encoded data over the network to the receiving side.

In the instant case, the invention of Group II has separate utility such as a receiving data encoded as groups of bits, each group having a first subgroup of critical information and a second subgroup of less critical information critical information bits and if an errored group of bits is received, and one of the replicated, critical information bits is evaluated to be of a first value, and transmission mode is not in in-packet mode, then replace the symbol associated with the errored group of bits with a DATA NULL symbol; and if an errored group

of bits is received, and one of the replicated, critical information bits is evaluated to be of a first value, and transmission mode is in in-packet mode, then accept the symbol associated with the errored group of bits as data. See MPEP 806.05(d).

Because these inventions are distinct for the reason given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reason given above and the reasons given above and search required for Group II is not for Group I, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reason given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

A telephone call was made to John W. Crosby on 03/26/07 to request an election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement is traversed (37 CFR 1.143).

Applicant is reminded that upon cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the specification. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

1. Applicant is reminded of the proper numbering of the claims (25-27). The last three claims are misnumbered. The claims should be corrected to read as 28-30.

#### **Conclusion**


2. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Esaw Abraham whose telephone number is (571) 272-3812. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are successful, the examiner's supervisor, Albert DeCady can be reached on (571) 272-3819. The fax phone numbers for the organization where this application or proceeding is assigned are (571) 273-8300 for regular communications and (571) 273-8300 for after final communications.


Information regarding the status of an Application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or PUBLIC PAIR. Status information for unpublished applications is available through Private Pair only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have

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questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Esaw Abraham

Art unit: 2133

  
GUY LAMARRE  
PRIMARY EXAMINER